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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,455	07/21/2003	Ami Hasson	Ha-2	3109
25895	7590	11/22/2004	EXAMINER	
ROBERT L STONE PC 13 MEADOWLARK LN EAST BRUNSWICK, NJ 08816			COLLINS, DOLORES R	
			ART UNIT	PAPER NUMBER
			3711	

DATE MAILED: 11/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/623,455	AMI HASSON	
	<b>Examiner</b>	<b>Art Unit</b>	
	Dolores R. Collins	3712	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 02 July 2004.  
 2a) This action is FINAL.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-16 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-16 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date: _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Amendment***

Examiner acknowledges response by applicant's representative received 7/9/04.

Examiner further acknowledges the corrections/clarifications made to address the issues of the first action.

### ***Claim Objections***

Claims 4, 6, 13 & 15 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim.

Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

***Claim Rejections - 35 USC § 101***

Claims 1, 4-8, & 12-16 are rejected under 35 U.S.C. 101 because the claim is directed to non-statutory subject matter.

In analyzing claim 1 for patent eligible subject matter, it is useful to first answer the question "What did applicant[s] invent?" In re Abele, 214 USPQ 682 (CCPA 1982). While the preamble of claim 1 characterizes the invention as a "method for enabling a conflict resolution . . .", a careful reading of the specification reveals that the applicant's invention can best be described as a system to create an environment conducive to communication that is hopefully peaceful. The invention is essentially a species of what people and nations have done since time immortal – i.e., weather forecasting and stock market predictions.

Having determined in general what the invention is, we must analyze it under the prevailing case law. The statute itself allows for the patenting of processes. However, it has been determined in many contexts that not all processes set forth patent eligible subject matter. One test that has recently been applied is whether the invention produces a useful, concrete, tangible result. See e.g., States Street Bank & Trust Co. v. Signature Financial Group Inc., 47 USPQ2d 1596 (Fed. Cir. 1998); AT&T Corp. v. Excel Communications Inc., 50 USPQ2d 1447 (Fed. Cir. 1999). Under that test, the invention must have practical utility, it must produce an assured result, and it must not be merely an abstraction lacking in physical substance.

Though the claimed invention may produce a concrete result, the claimed invention fails to produce a "tangible" result in the sense that it merely manipulates abstract ideas without producing a physical transformation or conversion of the subject matter expressed in the claim so as to produce a change of character or condition in some physical object. See In re Warmerdam, 31 USPQ2d 1754 (Fed. Cir. 1994); In re Schrader, 30 USPQ2d 1445 (Fed. Cir. 1994). Except for providing "real-life parameters", the remaining steps of the claim are effectively no more than items of conversation that are deemed abstract in nature. The method does not produce a physical transformation of said parameters. It is thus effectively a manipulation of abstract ideas and is thus not statutory.

Even if it might be determined that the claimed method can be characterized as producing a useful, concrete, tangible result, to be proper subject matter for patent eligibility, any useful, concrete, tangible result must be within the useful or technological arts. See e.g., In re Musgrave, 167 USPQ 280 (CCPA 1970); In re Foster, 169 USPQ 99 (CCPA 1971). The Constitution empowers Congress to promote the useful arts. The term "useful arts" has been equated with "technological arts" in a number of decisions. See e.g., In re Waldbaum, 173 USPQ 430 (CCPA 1972).

In this case, the claimed invention is not within the useful or technological arts. Rather, the invention is within the realm of the liberal arts or social sciences. In Musgrave and Foster, the inventions were deemed to be within the technological arts. In those cases, each invention clearly involved computer or machine technology. But here, there is no technology involved at all. There is no technology disclosed or claimed. The real-life parameters are peripheral elements to the actual process and cannot reasonably convert an otherwise non-statutory process outside the technological arts into one that is in fact within the technological arts.

Claims 1, 4-8, & 12-16 do not produce a useful, concrete, tangible result in the technological arts. The invention as disclosed and claimed does not promote the progress of the useful arts. Accordingly claims 1, 4-8, & 12-16 do not define statutory subject matter.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kail (797) in view of The Great Weather Lottery and Stock Market Trading.

Kail discloses a Method And Apparatus For Conducting Games Of Chance.

Kail discloses a Method And Apparatus For Conducting Games Of Chance.

Regarding claim 1

Kail teaches a forecasting game for seasonal sporting events (see abstract, figure 1 claims 22 & 26). Kail fails to teach real life parameters from the group of Meteorological and economic. The Weather Lottery discloses the use of temperature as a means to forecast lottery numbers. Additionally, Stock market trading utilizes economic parameters. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include meteorological and economic parameters to provide additional options for the player.

Regarding claim 2

Kail teaches the use of a mark able game card (abstract & figures 2A – 21).

Regarding claim 3

Kail teaches an electronic form (see claim 14).

Regarding claims 4 & 5

Kail teaches a forecasting game for seasonal sporting events (see abstract, figure 1 claims 22 & 26). Kail fails to teach real life parameters from the Meteorological group. The Weather Lottery discloses the use of temperature (a meteorological parameter) as a means to forecast lottery numbers. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include meteorological parameters to provide additional options for the player.

Regarding claims 6 & 7

Kail teaches a forecasting game for seasonal sporting events (see abstract, figure 1 claims 22 & 26). Kail fails to teach real life parameters from the economic group. The Stock market trading utilizes economic parameters. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include economic parameters to provide additional options for the player.

Regarding claim 8

Kail teaches a method of running a forecasting game that includes the identification of real life parameters (see abstract & col. 5, lines 50-55) and the storing of options, determining & resolving the results of participation (see abstract & col. 12, lines 36-41). Kail fails to teach real life parameters from the group of Meteorological and economic. The Weather Lottery discloses the use of temperature as a means to forecast lottery numbers. Additionally, Stock market trading utilizes economic parameters. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include meteorological and economic parameters to provide additional options for the player.

Regarding claims 9 -12

Kail teaches forms which include signs representing each selectable option (see figures 2A-21). Kail teaches the distribution and retrieval of information from all types of game cards and the distribution of prizes (col. 6, lines 20-67, col. 7, lines 1-11, col. 12, lines 27-41).

Regarding claims 13 & 14

Kail teaches a forecasting game for seasonal sporting events (see abstract, figure 1 claims 22 & 26). Kail fails to teach real life parameters from the Meteorological group. The Weather Lottery discloses the use of temperature

(a meteorological parameter) as a means to forecast lottery numbers. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include meteorological parameters to provide additional options for the player.

**Regarding claims 15 & 16**

Kail teaches a forecasting game for seasonal sporting events (see abstract, figure 1 claims 22 & 26). Kail fails to teach real life parameters from the economic group. The Stock market trading utilizes economic parameters. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include economic parameters to provide additional options for the player.

***Response to Arguments***

Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and are cited to show the state of art with respect to features of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Dolores R. Collins** whose telephone number is **(703) 308-8352**. The examiner can normally be reached on 8.00 A.M. - 4:30 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Greg Vidovitch** can be reached on **(703) 308-1513**. The fax phone number for the organization where this application or proceeding is assigned is **703-872-9306**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866-217-9197** (toll-free).

  
October 24, 2004\*\*\*

  
GREGORY VIDOVITCH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700